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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

9 || DUSTIN BARNETT.

Petitioner,

11 | VS.

12 || STATE OF NEVADA,

Respondent.

Case No. 3:15-cv-00035-RCJ-WGC

ORDER

The court has received from petitioner a petition for a writ of habeas corpus and a motion for counsel. Three problems exist. First, petitioner has not used this court's form for an application to proceed in forma pauperis, and the state-court form that he has used does not include all the information that this court needs. Second, petitioner has not used this court's form for a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. Third, the form that petitioner has used is for a post-conviction habeas corpus petition filed in state court. Petitioner might have intended to file the petition with the Second Judicial District Court of the State of Nevada, Washoe County. If petitioner indeed wishes to pursue federal habeas corpus relief, then he will need to resolve the matter of the filing fee and to file a petition on the correct form, and the court will give him the opportunity. If petitioner actually wishes to pursue state habeas corpus relief, then he will need to file his state habeas corpus petition with the state district court as quickly as possible.

IT IS THEREFORE ORDERED petitioner shall file an application for leave to proceed in forma pauperis, accompanied by a signed financial certificate and a statement of his inmate account. The clerk of the court shall send petitioner a blank application form for incarcerated litigants. In the

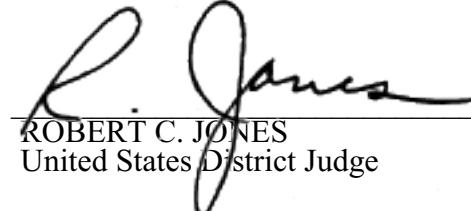
1 alternative, petitioner shall make the necessary arrangements to pay the filing fee of five dollars
2 (\$5.00), accompanied by a copy of this order. Petitioner shall have thirty (30) days from the date
3 that this order is entered to comply. Failure to comply will result in the dismissal of this action.

4 IT IS FURTHER ORDERED that the clerk of the court shall send petitioner a petition for a
5 writ of habeas corpus pursuant to 28 U.S.C. § 2254 form with instructions. Petitioner shall have
6 thirty (30) days from the date that this order is entered in which to file an amended petition. Neither
7 the foregoing deadline nor any extension thereof signifies or will signify any implied finding of a
8 basis for tolling during the time period established. Petitioner at all times remains responsible for
9 calculating the running of the federal limitation period and timely asserting claims. Failure to
10 comply with this order will result in the dismissal of this action.

11 IT IS FURTHER ORDERED that petitioner shall clearly title the amended petition as such
12 by placing the word “AMENDED” immediately above “Petition for a Writ of Habeas Corpus
13 Pursuant to 28 U.S.C. § 2254” on page 1 in the caption, and petitioner shall place the docket
14 number, 3:15-cv-00035-RCJ-WGC, above the word “AMENDED.”

15 DATED: This 11th day of February, 2015

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ROBERT C. JONES
United States District Judge